

MINUTES OF THE CONFERENCE CALL MEETING

BOARD OF PSYCHOLOGY

September 24, 2021

1. ROLL CALL and CALL MEETING TO ORDER

The meeting of the Board of Psychology was called to order by the Chair, Stacy Waldron, at 10:07 a.m. in the State Office Building, 301 Centennial Mall S, Conference Room 5D, Lincoln, Nebraska. In accordance with Neb. Rev. Stat. § 84-1411 of the Nebraska Open Meetings Act, copies of the agenda were e-mailed to the Board members and other interested parties, posted on the DHHS web site at <https://dhhs.ne.gov/licensure/Pages/Agendas-and-Minutes.aspx>, and posted in the Licensure Unit on 8.24.2021.

The following members answered the roll call:

MEMBERS PRESENT (7)

Stephanie Bruhn, PhD, Vice Chair
Jennifer Dreibelbis, Member
Tomeka Johnson, Member
Mark Lukin, PhD, Secretary
Connie Petersen, PhD, Member
Rebecca Schroeder, Member, (in room)
Stacy Waldron, PhD, Chair

MEMBERS ABSENT (0)

OTHERS PRESENT

Kris Chiles, Program Manager, Licensure Unit, (in room)
Mindy Lester, Assistant Attorney General, (in room)
Abby, Law Clerk Intern with Attorney General's Office, (in room)
Teresa Hampton, DHHS Attorney, (in room)
Anna Harrison, Licensure Compliance Monitor, (in room)
2 Members of the Public

A quorum was present and the meeting convened.

2. ADOPTION OF AGENDA

MOTION: Schroeder moved, seconded by Bruhn, to adopt the agenda. A voice vote was taken. Voting aye: Bruhn, Dreibelbis, Johnson, Lukin, Petersen, Schroeder, Waldron (7). Voting nay: None (0). Absent: (0). Motion carried.

3. APPROVAL OF MINUTES

MOTION: Dreibelbis moved, seconded by Lukin to approve the minutes of 7.16.2021. A voice vote was taken. Voting aye: Bruhn, Dreibelbis, Johnson, Lukin, Petersen, Schroeder, Waldron (7). Voting nay: None (0). Absent: (0). Motion carried.

4. 172 NAC 155 REVISIONS, DISCUSSION, AND DECISION

LB 390 LB 390, which was introduced at the request of the Governor, would allow holders of specified licenses (including psychology) from other states to more easily receive a license to practice in Nebraska. Approved by the Governor on April 21, 2021.

To implement LB 390, and as an opportunity to consider changes to other sections of the regulations, discussion included the following sections:

1. Section 004.03 – Supervised Postdoctoral Experience: should a % be set that limits telehealth as part of the supervised postdoctoral experience. After discussion, no change was suggested to this section.
2. Section 007 – Reciprocity Psychology License: members reviewed the drafted language and supported the changes (see below language)

007. RECIPROCITY PSYCHOLOGY LICENSE. To obtain a license based on reciprocity, an applicant must submit a complete application provided by the Department and provide documentation demonstrating that the applicant meets the requirements of Neb. Rev. Stat. §38-3121, 172 NAC 10, and this chapter. Applicants must submit documentation of:

- (A) A current license in another jurisdiction; **and**
- (B) A current Certification of Professional Qualification (CPQ) through the Association of State and Provincial Psychology Boards or a current credential at the doctoral level as a Health Service Provider by the National Register of Health Service Providers; **or**
- (C) Being licensed in a state participating in the Association of State and Provincial Psychology Boards Reciprocity Agreement; **or**
- (D) Meeting the requirements to obtain an initial license as set out in 172 NAC 155-004; **or**
- (E) Meeting the requirements of Neb. Rev. Stat. §38-129.02 and provide documentation of the following:**

- (i) **Possession of a current and valid credential as a (license type), for at least one year in another state, a territory of the United States, or the District of Columbia;**
- (ii) **The education required to obtain the credential;**
- (iii) **The minimum work experience and clinical supervision requirements, if any, required for the credential and the applicant's completion of the experience and clinical supervision;**
- (iv) **Passage of an examination for the credential, if required to obtain the credential in the other jurisdiction;**
- (v) **That the credential has not been subject to revocation or any other disciplinary action or voluntarily surrendered while the applicant was under investigation for unprofessional conduct or any other conduct which would be subject to Neb. Rev. Stat. §38-178 if the conduct occurred in Nebraska; and**
- (vi) **Information about any other credential the applicant has held and whether any disciplinary action has been taken against such credential. If disciplinary action has been taken documentation must be submitted showing the status of the action and whether the cause for the action has been corrected.**

007.01 EXAMINATION. All Applicants must submit documentation of passing the Nebraska jurisprudence examination with a minimum score of 80%.

007.02 RESIDENCY. All applicants receiving a license pursuant to 172 NAC 155-007(E) must submit documentation of establishing residency in Nebraska as required by Neb. Rev. Stat. §38-129.02. Such documentation must be submitted within 30 days of establishment of residency and consist of a rental or lease agreement with the signature of the owner or landlord and the applicant, a deed or title to residential real property with the name of the applicant as an owner, or documents with the name and address of the applicant such as mortgage bills, home utility bills, medical or employee documents or similar documents that show the applicant residing in Nebraska.

MOTION: Bruhn moved, seconded by Schroeder to forward 172 NAC 155 to DHHS Legal with the suggested language relating to LB 390 (see above section). A voice vote was taken. Voting aye: Bruhn, Dreibelbis, Johnson, Lukin, Petersen, Schroeder, Waldron (7). Voting nay: None (0). Absent: (0). Motion carried.

5. NEW BUSINESS

- a. LB 411: Require the provision and sharing of information by health care facilities and health insurance plans; to change provisions relating to the Health Information Technology Board (effective 9.30.2021). https://nebraskalegislature.gov/bills/view_bill.php?DocumentID=43648

Items discussed:

Section 1, item (3)(a): On or before September 30, 2021, each health care facility listed in subdivision (b) of this subsection shall participate in the designated health information exchange through sharing of clinical information. Such clinical information shall include the clinical data that the health care facility captured in its existing electronic health record as permitted by state and federal laws, rules, and regulations. Any patient health information shared with the designated health information exchange as determined by policies adopted by the Health Information Technology Board shall be provided in accordance with the privacy and security provisions set forth in the federal Health Insurance Portability and Accountability Act of 1996 and regulations adopted under the act.

Section 1, item #6: In addition to the right to opt out as provided in section 71-2454, an individual shall have the right to opt out of the designated health information exchange or the sharing of information required under subsections (3) and (4) of this section. The designated health information exchange shall adopt a patient opt-out policy consistent with the federal Health Insurance Portability and Accountability Act of 1996 and other applicable federal requirements. Such policy shall not apply to mandatory public health reporting requirements.

It was reported that the Governor's office is in process of appointing members of the Health Information Technology Board; there appears to be a large number of providers not going to sign-up by 9.30.2021 because the guidance/board has not been defined. Additionally, concerns were raised that the language does not include:

- diagnosis that protect patients;
- CFR 42 relating to confidentiality of substance use disorder patient records;
- opt out in compliance with Federal/State requirements; and
- asking patients if they want to participate.

b. Association Correspondence:

- Association of State Provincial Psychology Boards <http://www.asppb.org>

Dreibelbis will be attending virtually on October 15-16 at a cost of \$50.

Waldron reported she has been attending the Board chair meetings virtually and members discussed the need for someone to run the meetings; they suggested Waldron take on this role. Meeting topics have included reciprocity, COVID, education, and state challenges. She also reported that she was reappointed by the Board of Health to the Nebraska Board of Psychology.

- PSYPACT <https://www.asppb.net/page/PSYPACT>

No update

- American Psychological Association <http://www.apa.org>

No update

- Nebraska Psychological Association <http://www.nebpsych.org>

Next association meeting is scheduled for November 12th and includes ethics training.

Dr. Lundquist Wall reported that she has been receiving many questions relating to the required 1-year post doctoral experience, and the challenges it poses to applicants, including being able to complete the required 1500 hours in less than 1-year and then required to continue supervision when hours met. Chiles reported the 1-year requirement is found in statute (38-3114), thus to change the requirement, it would require a change in statute through the Legislative process.

38-3114. Applicant for license; qualifications.

An applicant for licensure as a psychologist shall:

- (1) Possess a doctoral degree from a program of graduate study in professional psychology from an institution of higher education. The degree shall be obtained from a program of graduate study in psychology that meets the standards of accreditation adopted by the American Psychological Association. Any applicant from a doctoral program in psychology that does not meet such standards shall present a certificate of retraining from a program of respecialization that does meet such standards;
- (2) Prior to taking the examination, demonstrate that he or she has completed two years of supervised professional experience. One year of such experience shall be an internship meeting the standards of accreditation adopted by the American Psychological Association, **and one year shall be supervised postdoctoral experience.** The criteria for appropriate supervision shall be determined by the board. Postdoctoral experience shall be compatible with the knowledge and skills acquired during formal doctoral or postdoctoral education in accordance with professional requirements and relevant to the intended area of practice; and
- (3) Pass an examination. The board shall approve and the board or department shall administer examinations to qualified applicants on at least an annual basis. The board shall determine the subject matter and scope of the examination and shall require a written examination, an oral examination, or both a written examination and an oral examination of each candidate for licensure. The board may approve a national standardized examination and any examination developed by the board.

Source

- Laws 1994, LB 1210, § 77;
 - R.S.1943, (2003), § 71-1,206.15;
 - Laws 2007, LB463, § 1048.
- Justice Behavioral Health Committee

Petersen indicated that she is on the Probation Advisory Board, so the Justice Behavioral Health Committee is not in favor of approving her as the Psychology Board representative. She attended the last meeting as a member of the public; she will be stepping down on the Probation Advisory Board so she can be re-considered as a Nebraska Psychology Board representative on the Justice Behavioral Health Committee.

6. UPDATES AND REPORTS

- a. Executive Order 21-12 and Directed Health Measures
<https://dhhs.ne.gov/licensure/Pages/Psychology.aspx>

On August 26, 2021, Nebraska Governor Pete Ricketts issued Executive Order 21-12 (expiring December 31, 2021), which provides waivers of specific statutes and applicable regulations due to a hospital capacity emergency.

Following highlights a few of the waivers:

1. The provisions of Neb. Rev. Stat. § 38-121 regarding credentialing, and, its implementing regulations, are hereby temporarily suspended in order to permit individuals who are properly and lawfully licensed to engage in advanced practice nursing, emergency medical services, medicine and

surgery, mental health practice, nursing, osteopathy, perfusion, pharmacy, **psychology**, respiratory care, and surgical assisting in a U.S. state or territory to work in Nebraska during the state of emergency so long as they are in good standing and free from disciplinary action in the states where they are licensed.

2. Suspends the Continuing Competency/Continuing Education requirements for renewal for the several license types, including psychology.
3. Temporarily suspends statutes/regulations to permit applicants for an initial license to practice as registered nurses, licensed practical nurses, physical therapists, **psychologists**, emergency care providers licensed under the Emergency Medical Services Practice Act, or to practice a profession which is authorized to prescribe controlled substances to receive a license pending the completion of a national criminal history record information check, with submission of fingerprints to the Federal Bureau of Investigations, so long as the professional meets other requirements for licensure and has passed Department-conducted checks of the Nebraska Data Exchange Network for a criminal history in Nebraska.
4. Obtain a provisional credential, which shall remain active pending examination results or until December 31, 2021, whichever is sooner, provided the person has completed all other requirements for licensure, including, but not limited to, completion of the required education or training program, and registers for the examination, but is unable to take the examination in the near future due to the lack of approved online testing or the limited availability of in-person testing slots.

Work or training with an onsite supervisor, with face-to face or direct supervision, or under any type of Practice agreement are temporarily deferred until December 31, 2021, solely in order to permit supervisors to provide remote supervision if the supervisor determines this is appropriate.

- b. Chiles reported that the Licensure Unit is moving to an internet based licensing system starting late 2021 and implementation ending 2022 called **LANCE** (Nebraska Licensing and Certification Environment).

LANCE will provide 24/7/365 access to real time license-related data, and provide licensees and applicants access to online services such as: application submission, uploading documents, renewal and reinstatement submissions, receiving automatic notifications of upcoming events and application status, updating contact information, and paying fees by credit/debit card or ACH through a PC, tablet, or phone.

An email address is required for licensees and applicants to utilize the on-line services in **LANCE** and to obtain important licensing information via automated notifications. Licensees will be receiving a postcard in the near future asking licensees to update demographics if out-dated.

- c. Reports: Licensure and Examination Statistics, Administrative Penalties, and Disciplinary/NonDisciplinary Action Reports (attached to meeting agenda)

11:26 a.m. Break, Hampton and members of the public departed the meeting
11:38 a.m. Meeting resumed

7. INVESTIGATIVE AND CONFIDENTIAL INFORMATION – Closed Session

MOTION: Petersen moved, seconded by Schroeder, to enter into closed session at 11:40 a.m. for the purpose of hearing discussions of an investigative/confidential nature and for the prevention of needless injury to the reputation of the individuals. Waldron repeated the motion and purpose. A roll call vote was taken. Voting aye: Bruhn, Dreibelbis, Johnson, Lukin, Petersen, Schroeder, Waldron (7). Voting nay: None (0). Absent:(0). Motion carried.

11:40 a.m. Carla Cue joined meeting
11:55 a.m.. Cue departed the meeting

Verbal agreement to return to open session by all board members at 11:55 a.m.

8. OPEN SESSION: Review, Recommendations and Report Out
(Applications, Mail Ballot Summary Report, and Reinstatements)

Melissa Fredette: 30-Day Practice Authorization

MOTION: Bruhn moved, seconded by Schroeder, to recommend issue with no terms and conditions. A roll call vote was taken. Voting aye: Bruhn, Dreibelbis, Johnson, Lukin, Petersen, Schroeder, Waldron (7). Voting nay: None (0). Absent: (0). Motion carried.

9. ADJOURNMENT

There being no further business, Waldron stated the next meeting of the Board is November 19, 2021 and declared the meeting adjourned at 12:06 p.m.

Submitted,

Mark Lukin, PhD, Secretary
Board of Psychology

Summarized by the Licensure Unit